

DISTRICT JUDGE'S CIVIL MINUTES
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA – PHOENIX

U.S. District Judge: Susan R. Bolton

Date: November 17, 2023

Case Number: CV-22-00509-PHX-SRB

Mi Familia Vota, et al. v. Adrian Fontes, et al.

APPEARANCES: **Molly Danahy, Hayden Johnson, Danielle Lang, Sadik Huseny, Amit Makker, Evan Omi, Neethu Putta, Niyati Shah, Christopher Babbitt, Kelsey Quigley, Daniel Arellano, Christopher Dodge, John Freedman, Michelle Kanter Cohen, Leah Motzkin, Jonathan Sherman, Erika Cervantes, Ernest Herrera, Emily Brailey, Richard Dellheim and Margaret Turner**

Plaintiff(s) Counsel

Kathryn Boughton, Timothy Horley, and Joshua Whitaker

Defense Counsel

**Kory Langhofer and Thomas Basile Counsel for Intervenor Republican National Committee,
Hanna Porter for Intervenor Defendants Warren Petersen and Ben Toma**

BENCH TRIAL (Day 9):

9:00 a.m. **Defendants' case (continued).** Brief discussion held regarding trial schedule. Bill Knuth is sworn and examined. The witness is excused. Defendants have no further witnesses to call and request their case to remain open. Discussion held regarding the remaining exhibits to be offered. Defense Exhibits 970, 974, 975, 700 through 708, 796, 803 and 833 are admitted. Plaintiffs Exhibits 102, 111, 116, 118, 119, 121, 122, 123, 127, 129, 134, 136, 139, 146, 148, 151, 153, 156, 157, 165, 170, 174, 175, 179, 182, 317, 318, 408, 409, 596, 597, 276, 369, 37, 506 through 510, 512, 397, 53, and 253 are admitted. As to Exhibit 444, the parties are directed to provide a stipulation in lieu of Exhibit 444 indicating there is no dispute that the public assistance agencies only use the State form. As to the offer of video evidence (Exhibit 61) by Mr. Herrera, with no objection by the Defendants, the 20 second clip offered is admitted as 61a. The parties are directed to advise the Courtroom Deputy which exhibits that both sides have agreed upon.

Discussion held regarding the stay of discovery as to Ben Toma and Warren Petersen that was dissolved by the Ninth Circuit Court of Appeals. Mr. O'Malley, counsel for Mr. Toma and Mr. Petersen addresses the Court regarding the permissible scope of the depositions. 10:52 a.m. Court is in recess.

11:07 a.m. Court reconvenes. Argument continues by Mr. O'Malley regarding the scope of the depositions of Ben Toma and Warren Petersen. Mr. Babbitt, counsel for Arizona Democratic Party and Democratic National Committee responds to Mr. O'Malley's argument. The Court enters its Order as stated on the record.

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Mr. O'Malley's request to limit each deposition to four hours is denied. The depositions shall be limited to seven hours for each deponent as permitted by the Federal Rules of Civil Procedure.

Discussion held regarding the Proposed Findings of Fact and Conclusions of Law. No responses and no further trial memoranda will be allowed. The deadline to file the Proposed Findings of Fact and Conclusions of Law is **December 12, 2023**. Closing arguments will be heard on **December 19, 2023 at 9:30 a.m.** The parties are directed to provide the Court with all admitted exhibits on a flash drive.

For clarification purposes, the evidence will remain open and is limited to the following:

1. Plaintiffs' Request for Judicial Notice (Doc. 618) and any additions by Defendants.
2. Plaintiffs' final designation of deposition testimony of witnesses who were not called to testify and any objections thereto.
3. Final designations of unobjected to hybrid depositions testimony
4. Deposition designations for Warren Petersen and Ben Toma
5. The possibility of offering additional exhibits from the document production by Mr. Peterson and Mr. Toma.
6. The possibility of additional interrogatory answers of the County Recorders.

11:45 a.m. Court is adjourned until December 19, 2023 at 9:30 a.m.

Upon stipulation of the parties the following exhibits are admitted: 54-60, 61 and 62 (transcript only), 490 through 500, 3, 5, 19, 20, 22, 23, 29 through 36, 51, 67, 68, 70, 72, 73, 78 through 84, 89, 90, 93, 197, 204, 207, 223 through 226, 230, 254, 266, 278, 285 through 287, 293, 301, 307, 308, 333, 392 and 434.

Deputy Clerk: Elaine Garcia

Court Reporter: Teri Veres

Start: 9:00 AM

Stop: 11:45 AM

Total: 2 hrs 30 mins